

MHND060001292024



R.C.S. No.16/2024,

Kashabai & Ors. Vs. Sushilabai & Ors.

ORDER BELOW EXH-05

(Date 24.09.2025)

Present application filed by the plaintiffs i.e. sisters against the defendant No.01 the Mother, defendant No.02 the Brother, defendant No.03 Sister-in-law and defendant No.04 niece for temporary injunction restraining the defendants from alienating or creating third party interest over the suit property.

Brief facts stated by the plaintiffs are as under :

02. The suit properties originally owned and possessed by to deceased Madhavrao Wanole, the husband of defendant No.01. That the suit properties are the Properties of Joint undivided Hindu Family properties. During the life time of deceased Madhavrao the partition of the suit properties have not been got effected in between his legal heirs and successors. That, behind the back and without consent and permission of plaintiffs, the defendant No.1, 2 and deceased Datta have mutated their names in revenue record. The mutation entry No.9785 is also sanctioned in respect of land Gat No.539,753,747 and 756 in the names of defendant No. 1,2, and Datta. The mutation Entry no.9318 is also sanctioned in respect of land Gat no.542 in the name of defendant No.1. Both these entries sanctioned by the revenue authorities behind the back and without following due process of law. Further, without the consent of and permission of the plaintiffs, deceased Datta has sold out the portion of 0 H 69 R in land

Gat No.756 by way sale deed No.867/2023 dated 28.05.2023. It is submission on the part of plaintiffs that though the plaintiffs have stood as the consenting parties in the said sale, yet the fact remains that they are coparceners and they have neither relinquished their right of partition and separate possession in any of the property including property sold out by deceased Datta. Thus, the sale deed No.867/2023 dated 28.05.2023 executed by Datta in favour of Bhaskar Govindrao Patil is not binding upon rights of the plaintiffs. Considering that suit properties are ancestral and joint family properties the plaintiffs demanded their respective share to the extent of 1/6th share each, but, the defendants tried to deprived them. Further, the defendants are trying to transfer the suit properties. So, the plaintiffs are constrained to file present suit and alongwith it the present application for passing a temporary injunction order restraining the defendants from alienating or creating third party interest over the suit property.

03. The defendant No.01 and 02 though served with suit summons failed to appear before the Court, and so, the matter proceeded ex-parte against them.

04. The defendant No.03 and 03 though appeared but failed to submit their written statement so, matter proceeded without written statement against them.

05. In view of pleadings, following points arise for my consideration and the Court has recorded its findings thereon as under :

<u>Sr.No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
01.	Whether there is a prima-facie case in favour of the plaintiffs ?	In Affirmative
02.	Whether balance of convenience lies in favour of the plaintiffs ?	In Affirmative
03.	Whether plaintiffs would suffer irreparable loss, if application came to be rejected ?	In Affirmative
04.	What order ?	As per final order

REASONS

AS TO POINT Nos.01 to 03 :

06. Heard learned Advocate Shri N.S.Sonkamble for the plaintiffs. Perused documents placed on record, more particularly, the 7x12 extracts respectively Gat No.542,539,753,747, Mutation entry, death certificates of Deceased Madhavrao and deceased Datta and Addhar cards of all plaintiffs. He submitted that properties being ancestral, the plaintiffs have right over the suit property. The deceased Datta has sold out suit properties and so, there has to be injunction from further alienation of the suit properties till the decision of the suit, for protecting the rights and interest of the plaintiffs.

07. Perused the application, the say filed and the documents produced on record, particularly, the 7 X 12 extracts, the mutation entries etc.

08. While deciding present application the plaintiffs have to satisfy on three golden principles i.e. prima-facie case, balance of convenience and irreparable loss.

09. It is pertinent to note that the present application Exh-05 is limited to the extent of not to alienate or create third party interest. It is claim of the plaintiff that suit properties are ancestral and joint family properties. The documents on records are in the form of 7 X 12 extracts and mutation entries. They goes to show that suit properties intially stood in the name of Madhavrao. It is claim of the plaintiffs that suit properties were originally owned by deceased Madavrao and plaintiffs and defendant No.1 and 2 as well as defendant No.3 and 4 are legal heirs of said Madavrao. In spite of service of summons, these defendants did not contest the present application. Now, as stated aforesaid, the present application is just to restrain further alienation of suit properties. The suit shall be decided on its own merit after leading of evidence. However, if injunction is not granted then there is likelihood of further alienation. The Courts opines so because already the deceased Datta has alienated the suit property. Thus, the Court finds that there is a prima-facie case in favour of the plaintiffs. The balance of convenience also lies in the favour of the plaintiffs. More importantly, if injunction is not granted then there is possibility of alienation which may cause hindrance in the trial and the plaintiffs shall be the sufferer. On the other hand, if injunction is granted there shall be no loss to the defendants comparatively. In result, the Court answers point Nos.01 to 03 in the affirmative.

AS TO POINT No.04 :

10. In view of findings on point Nos.01 to 03, the application deserves to be allowed by restraining the defendants from alienating or creating third party interest over the suit property. In result, the

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R.C.S. No.16/2024,
Ord. below Exh-05.

Court proceed to pass the following order :

ORDER

01. Application is allowed.
02. The defendants are temporarily restrained from alienating or creating third party interest over the suit property till the decision of this suit.
03. Costs in cause.
04. Pronounced in open Court.

Date : 24. 09. 2025.

(A.A.K. Shaikh)
Civil Judge Sr. Division
Biloli.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the original Judgment.

Name of the Stenographer : A.K.Shaikh

Court Name : Court of Civil Judge S.D. Biloli

Date : 24. 09. 2025

Judgment signed by the Presiding Officer on : 24. 09. 2025

Judgment/Order uploaded on : 24.09.2025